Arizona Dept. of Health Services Division of Behavioral Health Services

Encounter Tidbits

Arizona Department of Health Services

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HIPAA Corner… … …

Patients Still Confused About Privacy Rights Under HIPAA

Published: November 15, 2004

Many patients still don't understand their rights under the HIPAA privacy regulations despite government efforts to streamline the information and increase public awareness, according to the *Las Vegas Sun*.

Many of the misconceptions relate to the use and protection of health information. For instance, some believe that spouses have automatic rights to access partners' medical information. They don't unless given specific authorization.

In addition, some patients have unrealistic expectations about the extent of their privacy. "Some feel like only having a curtain between patients is a violation of their privacy," Linda Mullins, ethics and compliance officer for Sunrise Hospital in Las Vegas, told the *Sun*.

As a whole, the general public is still confused about the implications of HIPAA privacy, Nancy Leville, director of health information management at Valley Hospital, told the paper. But, the complex nature of the regulations may not necessarily be bad, she said. "I would be more concerned as a consumer if it's easy to get my records. If you feel like you're jumping through hoops, maybe that's good."

Office of Civil Rights Releases Guidance on State Public Record Laws

The privacy rule allows a covered entity to use and disclose PHI as required by other laws, including state law. If a state agency is a covered entity and the state public records law orders the disclosure of PHI, the covered entity can release the information, according to recent guidance from the Office of Civil Rights (OCR). The disclosure must be limited to and meet the requirements of the state law.

Circumstances where exceptions apply or where the state law allows but does not mandate PHI disclosure are exempt from privacy rule compliance requirements, the guidance says. For example, some state laws allow state agencies to not release information when the disclosure would constitute a clearly unwarranted invasion of personal privacy.

State agencies that are not covered entities do not have to comply with the privacy rule and the disclosure of information by those agencies is not subject to HIPAA requirements. Go to the OCR Web site for more information.

Can "Indefinite" be Written as the Expiration on an Authorization for Disclosure of Records?

HIPAA's authorization for release of PHI, or any other authorization for use or release of personal information, includes, for example:

- Description of information that will be released
- Purpose for release or use of the information
- Clarification on whether the information will be used or released by a given date or event or whether it will be ongoing
- Notice that the information released may no longer be protected
- Right of the patient to refuse to sign for the release (and a clear description of the consequences, if any) without retaliation

The intent is to provide the individual with enough information to make an informed decision about whether he or she wants to authorize a disclosure. In the case of HIPAA, if the authorization form meets all the criteria, then a covered entity may ask an individual for authorization to do anything with his or her PHI, even post it on the Internet.

HIPAA's privacy rule initially required that all authorizations have an end date or event; the government later changed this rule to permit open-ended authorizations for research purposes. Limit the time period based on the purpose for the release. You can do this by using a date or an event.

In most cases, unless the release is for research, you cannot write "indefinite" as the expiration on an authorization for disclosure of records. But usually an authorization can be written with an end date or event that will satisfy HIPAA.

Note: This question was answered by Kate Borten, CISSP, CISM. This is not legal advice. Consult with your facility's legal counsel for legal matters.

ADHS Email Address Changes

Email addresses for all ADHS employees have changed to the following format: LLLLLLF@azdhs.gov where "LLLLLL" is the first 6 characters of the last name and "F" is the first character of the first name. If there are two names creating a duplicate address, a tie breaking character will be used. If you have any questions regarding an employees correct email address, please contact the employee. All email addresses have been changed to the new format and old addresses or aliases are no longer valid, you must update your email address books and distribution lists immediately to avoid misdirected communications.

Important Information on Corporate Compliance

Compliance Program Functions

The OIG has repeatedly included recommendations concerning excluded individuals in its compliance guidance for differing types of providers. An effective compliance program should include policies and procedures that ensure excluded individuals are not employed by health care providers. In its compliance guidance for clinical laboratories, the OIG states, "Pursuant to the compliance program, clinical laboratory policies should prohibit the employment of individuals who have been recently convicted of a criminal offense related to health care or who are listed as debarred, excluded, or otherwise ineligible for participation in federal health care programs."

OIG Compliance Guidance ***requires*** *providers to perform background checks* on all new employees who are in a position to influence the ordering, marketing, performance, coding and/or billing of services payable by Medicare and/or Medicaid. The federal government has created two searchable databases to assist providers with background checks. The following links will help you determine if an individual has been excluded from participation in a federal health care program:

- OIG's List of Excluded Individuals and Entities: http://exclusions.oig.hhs.gov/search.html
- General Services Administration's List of Excluded Parties: http://epls.arnet.gov

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AHCCCS
Division of Health Care Management
Data Analysis & Research Unit
Encounter File Processing Schedule
January – February 2005

FILE PROCESSING ACTIVITY	Jan 2005	Feb 2005
Deadline for Corrected Pended Encounter and New Day File Submission to AHCCCS	Fri 1/7/2005 12:00 PM	Fri 2/5/2005 12:00 PM
Work Days for AHCCCS	6	6
Encounter Pended and Adjudication Files Available to Health Plans.	Tue 1/17/2005	Tue 2/14/2005
Work Days for Health Plans	14	14

NOTE:

1. This schedule is subject to change. If untimely submission of an encounter is caused by an AHCCCS schedule change, a sanction against timeliness error will not be applied.
2. Health Plans are required to correct each pending encounter within 120 days.
3. On deadline days, encounter file(s) must arrive at AHCCCS by 12:00 p.m., Noon, unless otherwise noted

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Important Reminders … …

Edit Failure Research Requested by RBHAs

In order for the Office of Program Support staff to effectively research encounters failing for any CIS pre-processor errors, the following information *must be provided* to expedite resolution to the problem.

- Edit Number
- ICN (minimum of 5)
- Dates of Service
- Provider Id
- Date the file was sent to ADHS/DBHS for processing
- Procedure/Revenue Code

The RBHA should send the request to the appropriate Encounter Representative for research. Your assigned Technical Assistant will report to the RBHA its findings via email, fax, or telephone.

If you need assistance, please contact your assigned Technical Assistant at:

Michael Carter	Excel NARBHA	(602) 364-4710
Eunice Argusta	CPSA-3 CPSA-5 Gila River Navajo Nation Pascua Yaqui	(602) 364-4711
Javier Higuera	PGBHA Value Options	(602) 364-4712

HHS publishes important upcoming HIPAA dates

The Department of Health and Human Service (HHS) published, in its Semiannual Regulatory Agenda in the December 13 *Federal Register*, important HIPAA implementation dates providers should know.

HHS plans to issue notices of proposed rulemaking on the following dates for the following items:

- January 2005, Claims Attachment standard
- February 2005, HIPAA enforcement
- April 2005, National Health Plan Identifiers
- June 2005, Transactions and code sets standards (modifications and revisions)
- August 2006, electronic Medicare claims submission

Go to the December 13 *Federal Register* (http://www.access.gpo.gov/su_docs/fedreg/a041213c.html) for more information.

AHCCCS Encounters Error Codes

R410 – Recipient not eligible for AHCCCS services on Service Dates

Review the AHCCCS ID and service begin and end dates for the encounter. The most common error involves the client's termination of enrollment in the health plan. Review the enrollment information for the client using PMMIS screen RP216 – Inquire BHS/FYI Data, this screen indicates current or past enrollments and provides basic data for the client. If you are unable to resolve the issue, please contact the appropriate technical assistant.

Z725 – Exact Duplicate from Different Health Plans

Encounters are pending because at least one claim was found in the system from another health plan that matches the pended claim. These claims need to be researched by both health plans' to determine the cause for the exact duplicate. Each health plan must work together to resolve the issue and decide who should receive payment for the service. Your assigned technical assistant is available to help you with your research.

R410 Recipient Not Eligible for AHCCCS Services on Service Dates	7,550
Z725 Exact Duplicate from Different Health Plans	5,212
Total	12,762

*These errors account for **52.65%** of the pended encounters at AHCCCS.*

Edit Alerts

An Edit Alert is a faxed and e-mailed notice of system enhancements or changes. The Office of Program Support strives to ensure any system enhancements or changes are communicated to all program participants in an accurate and reliable manner. Edit Alerts will be distributed when the information is first made available and again with the following monthly publication of the Encounter Tidbits.

Medical Record Number (837I)

July 1, 2004

Change Description:

CIS will edit for the Medical Record Number (institutional only) on encounters with dates of service 7/1/2004 and later. The medical record number should not be substituted with the Patient Control Number and must match what is in the client's medical record. The medical record number is assigned to the patient by the provider and is typically used to audit the history of treatment. It is important to note that AHCCCS may request a client's medical record from the provider at any time when questions arise concerning data integrity.

Edit Function:

Fail pre-processor edit "F95" Medical record number cannot be spaces. This change will enable ADHS/DBHS to be more in harmony with AHCCCS' system and will decrease the number of encounters pending at AHCCCS.

Billing Questions ……

Medical Privacy and Electronic Medical Records

Response from Melinda Hatton, JD

Chief Washington Counsel, American Hospital Association, Washington, DC

Posted 11/12/2004

Q What are the HIPAA directives for a patient's clinical information if a physician is using an electronic medical record (EMR)?

A The HIPAA medical privacy rule does not single out for special treatment an EMR, nor does it establish special requirements that apply solely to patients' clinical information found in or maintained as an EMR.

Rather, the rule's requirements related to the use and disclosure of a patient's protected health information (PHI) apply regardless of the format in which the information is maintained or transmitted. The rule's permitted, restricted, and prohibited uses and disclosures, therefore, apply directly to any written, oral, and electronic PHI, including information found in or maintained as an EMR. (See the definition of "protected health information" in section 164.501 of the rule.)

That the patient's clinical information is found in or maintained as an *electronic* (rather than paper) medical record may affect the approach that the organization uses to ensure its compliance with particular requirements of the HIPAA medical privacy rule. For example, an organization would need to consider ways in which having an EMR might determine how to meet the obligation to ensure that a patient can inspect and obtain a copy of his or her own information as required under Section 164.524 of the rule. In this case, the organization might choose to provide hard copy or print out of the information rather than allow direct access to its electronic systems.

In contrast to the HIPAA medical privacy rule, the HIPAA security rule applies *only to* PHI stored in or transmitted through electronic information systems. The security rule's requirements for protecting the confidentiality, integrity, and availability of electronic PHI, therefore, will be directly applicable to the electronic medical record, but would not affect paper records or oral communications of patient information. For most provider organizations, compliance with the security rule's requirements is required as of April 20, 2005.

References

US Department of Health and Human Services, Office of the Secretary, Federal Register. Standards for Privacy of Individually Identifiable Health Information; Final Rule. Available at: http://www.hhs.gov/ocr/hipaa/privrulepd.pdf Accessed November 1, 2004.